

**AN ORDINANCE BY
COMMUNITY DEVELOPMENT AND HUMAN RESOURCES COMMITTEE**

**AN ORDINANCE TO AMEND CHAPTER 158, ARTICLE II, DIVISION 2,
SUBSECTION 158-65 (a) (3) (c) AND ARTICLE II, DIVISION 3,
SUBSECTION 158-101 (e) OF THE CODE OF ORDINANCES OF THE
CITY OF ATLANTA, GEORGIA, SO AS TO CLARIFY THE CITY'S
TREE PROTECTION ORDINANCE; AND FOR OTHER PURPOSES.**

WHEREAS, Chapter 158, Article II, Division 2, Section 158-65 of the Code of Ordinances of the City of Atlanta, Georgia sets out the appeals process from the decisions of administrative officials based on the tree protection ordinance; and

WHEREAS, Chapter 158, Article II, Division 2, Subsection 158-65 (a) (1) (a) of the Code of Ordinances of the City of Atlanta, Georgia provides that an appeal may be made by any person who is aggrieved by a decision and who resides or owns property or a business within 500 feet on which the tree (s) at issue are located; and

WHEREAS, Chapter 158, Article II, Division 2, Subsection 158-65 (a) (3) (c) of the Code of Ordinances of the City of Atlanta, Georgia requires that a notice of appeal contain information regarding whether an appellant owns and/or resides on property or owns a business on property located within 300 feet from the property on which the tree (s) at issue are located; and

WHEREAS, Subsections 158-65 (a) (1) (a) and 158-65 (a) (3) (c) contain conflicting references to the distance between the appellant's property or business and the trees at issue in the case; and

WHEREAS, the City of Atlanta ("City") desires to maintain consistency in the provisions relating to the tree protection appeals process; and

WHEREAS, the City wishes to amend Chapter 158, Article II, Division 2, Subsection 158-65 (a) (3) (c) to provide that a notice of appeal contain information regarding whether an appellant owns and/or resides on property or owns a business on property located within 500 feet from the property on which the tree (s) at issue are located; and

WHEREAS, the City has also identified the need to amend Chapter 158, Article II, Division 3, Subsection 158-101 (e), which pertains to the posting requirements of the notice of preliminary approval to remove, destroy, or injure trees.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY
ORDAINS as follows:**

Section 1: That Chapter 158, Article II, Division 2, Subsection 158-65 (a) (3) (c) of the Code of Ordinances of the City of Atlanta, Georgia, which reads:

c. The notice of appeal shall state at a minimum: the name, address, phone number, and email address (if any) of the appellant, and whether the appellant is an Atlanta citizen; if the tree(s) at issue are located on public property and the appellant is not an Atlanta citizen, whether the appellant owns property or a business in Atlanta, and if so, the address; if the tree(s) at issue are located on public property, whether the appellant is a civic association in the neighborhood planning unit in which the tree(s) at issue are located; if the tree(s) at issue are located on private property, whether the appellant owns and/or resides on property or owns a business on property located within 300 feet from the property on which the tree(s) at issue are located; the date of the decision being appealed; the name of the person(s) who filed the permit application about which the appeal is made; the address of the subject property; the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.

Is hereby amended to read as follows:

c. The notice of appeal shall state at a minimum: the name, address, phone number, and email address (if any) of the appellant, and whether the appellant is an Atlanta citizen; if the tree(s) at issue are located on public property and the appellant is not an Atlanta citizen, whether the appellant owns property or a business in Atlanta, and if so, the address; if the tree(s) at issue are located on public property, whether the appellant is a civic association in the neighborhood planning unit in which the tree(s) at issue are located; if the tree(s) at issue are located on private property, whether the appellant owns and/or resides on property or owns a business on property located within 500 feet from the property on which the tree(s) at issue are located; the date of the decision being appealed; the name of the person(s) who filed the permit application about which the appeal is made; the address of the subject property; the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.

Section 2: That Chapter 158, Article II, Division 3, Subsection 158-101(e) of the Code of Ordinances of the City of Atlanta, Georgia, which reads:

(e) Posting. Within five business days after the notice of preliminary approval is issued by the city and the applicant has marked all trees to be removed, destroyed, or injured, the notice of preliminary approval shall be posted in the office of the arborist, on the City of Atlanta website (www.atlantaga.gov) and in a prominent manner upon the property affected so that it may be seen and read by passers-by.

Such notice shall remain posted for a period of 15 consecutive days. The notice of preliminary approval shall inform any reader that an appeal may be filed with the clerk of the tree conservation commission within 15 days of the date of posting the notice on the affected property, and that the failure to appeal within that time will result in the issuance of the permit without further right of appeal of the preliminary approval. If the notice of preliminary approval is not posted as required by this section, no permit shall be issued. The commission may provide further by rule for the manner and method of this posting to the extent that such rule is consistent with the requirements of this section.

Is hereby amended to read as follows:

(e) Posting.

(1) For trees located on private property, two postings shall be required. The first posting shall remain for a minimum of 10 calendar days and shall notify the public that an application to remove the designated tree(s) was filed with the City. The City will not accept any appeals filed within this ten day notice period. The second posting, providing notice of preliminary approval, shall be made if and when the City issues preliminary approval of the application to remove the designated tree(s) from private property. This second posting shall not begin until after the first posting is removed. The second posting shall remain in place for five (5) business days, during which time the City will accept appeals.

(2) For trees located on public property, only one posting shall be required. The posting shall indicate the issuance of a notice of preliminary approval of the designated public property tree(s), and shall remain in place for fifteen (15) calendar days, during which time the City will accept appeals.

(3) Immediately after an applicant receives preliminary approval for removal of a tree on public or private property, s/he shall mark all trees to be removed, destroyed, or injured.

(4) The notice of preliminary approval for both public and private property trees, shall be posted in the office of the City Arborist that is ruling on the removal permit (either the Office of Planning or the Office of Parks), on the City of Atlanta website (www.atlantaga.gov), and in a prominent manner upon the property affected so that it may be seen and read by passers-by. The notice of preliminary approval shall inform any reader that an appeal may be filed with the clerk of the tree conservation commission, and shall indicate the deadline by which the appeal must be filed. The notice shall further indicate that the failure to appeal within the designated time period will result in the issuance of the removal permit without further right of appeal. If the notice of preliminary approval is not

may provide further additional rules regarding the manner and method of posting to the extent that such rule is consistent with the requirements of this section.

Section 3: That all ordinances or parts of ordinances that are in conflict with the provisions of this ordinance are waived to the extent of the conflict.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Community Development and Human Resources

Caption: AN ORDINANCE TO AMEND CHAPTER 158, ARTICLE II, DIVISION 2, SUBSECTION 158-65 (a) (3) (c) AND ARTICLE II, DIVISION 3, SUBSECTION 158-101 (e) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, SO AS TO CLARIFY THE CITY'S TREE PROTECTION ORDINANCE; AND FOR OTHER PURPOSES.

Council Meeting Date: April 21, 2008

Requesting Dept.: Planning and Community Development

B. To be completed by the department :

1. Please provide a summary of the purpose of this legislation (Justification Statement).

To correct a discrepancy in the Tree Ordinance, with proposed changes to the ordinance, much confusion will be eliminated.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

(a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**

(b) **Source Selection:** N/A

(c) **Bids/Proposals Due:** N/A

(d) **Invitations Issued:** N/A

(e) **Number of Bids:** N/A

(f) **Proposals Received:** N/A

(g) Bidders/Proponents: N/A

(h) Term of Contract: N/A

4. Fund Account Center: N/A

5. Source of Funds: *Example: Local Assistance Grant*

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Ainsley Caldwell

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison (s): Ainsley Caldwell

Contact Number: (404) 330-6002

Originating Department: Planning

Committee(s) of Purview: Community Development and Human Resources

Chief of Staff Deadline: February 27, 2008

Anticipated Committee Meeting Date(s): March 11 & April 1,

Anticipated Full Council Date: April 21, 2008

Legislative Counsel's Signature: Terry Grandison

Commissioner Signature: [Signature]

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE TO AMEND CHAPTER 158, ARTICLE II, DIVISION 2, SUBSECTION 158-65 (a) (3) (c) AND ARTICLE II, DIVISION 3, SUBSECTION 158-101 (e) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, SO AS TO CLARIFY THE CITY'S TREE PROTECTION ORDINANCE; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ (date) Received by LC from CPO: _____ (date)

Received by Mayor's Office: 2/28/08 [Signature] (date) Reviewed by: [Signature] (date)

Submitted to Council: _____ (date)